



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

John R. Peery

Serial No.: 09/296,582

Filed: April 23, 1999

For: TROCAR FOR INSERTING
IMPLANTS

Confirmation No.: 8609

Examiner: L. Thanh

Group Art Unit: 3763

Attorney Docket No.: 3139-6163US
(ARC 2280 US R1)

Notice of Allowance Mailed:

January 24, 2006

NOTICE OF EXPRESS MAILING

Express Mail Mailing Label Number: EL995987161US

Date of Deposit with USPS: April 20, 2006

Person making Deposit: Timothy Palfreyman

TRANSMITTAL LETTER

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant submits herewith Part B - Fee(s) Transmittal for the above-captioned application and a Request to Apply Previously Paid Issue Fee to Issue Fee Required by New Notice of Allowance.

Also enclosed are Comments on Statement of Reasons for Allowance (2 pages) and Fee Addressee for Receipt of PTO Notices Relating to Maintenance Fees (2 pages).

Serial No.: 09/296,582

Applicant understands that no additional fees are required. However, if the Office determines that any comparison fees or other additional fees are required, the Commissioner is authorized to charge any such fees to TraskBritt Deposit Account No. 20-1469. A copy of this Transmittal Letter is enclosed for deposit account charging purposes.

Respectfully submitted,



Edgar R. Cataxinos
Registration No. 39,931
Attorney for Applicant
TRASKBRITT
P.O. Box 2550
Salt Lake City, Utah 84110-2550
Telephone: 801-532-1922

Date: April 20, 2006

ERC/dn:es

Enclosures: Part B - Issue Fee Transmittal (1 page)

Copy of Transmittal Letter (2 pages)

Request to Apply Previously Paid Issue Fee to Issue Fee Required by New Notice
of Allowance (2 pages), with attached copy of Decision on Petition (1 page)

Comments on Statement of Reasons for Allowance (2 pages)

Fee Addressee for Receipt of PTO Notices Relating to Maintenance Fees (2 pages)

Document in ProLaw



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**REQUEST TO APPLY PREVIOUSLY PAID ISSUE FEE TO ISSUE FEE REQUIRED
BY NEW NOTICE OF ALLOWANCE**

Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to the Decision on Petition mailed December 23, 2005 (a copy of which is attached hereto), Applicant respectfully requests that the issue fee and extra copies fee paid April 2, 2004 in the total amount of \$1,330.00 be applied to the fees due under the new Notice of Allowance mailed January 24, 2006. Applicant understands that the issue fee amount has since

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increased, and therefore encloses a check in the amount of \$70.00 to cover the difference between the issue fee previously paid and the issue fee due under the new Notice of Allowance.

This Request is submitted simultaneously with the new Issue Fee Transmittal Form PTOL-85(b) and accompanying papers.

Respectfully submitted,



Edgar R. Cataxinos
Registration No. 39,931
Attorney for Applicant
TRASKBRITT
P.O. Box 2550
Salt Lake City, Utah 84110-2550
Telephone: 801-532-1922

Date: April 20, 2006

ERC/dn:es

Attachment: Copy of Decision on Petition mailed December 23, 2005

Document in ProLaw



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov



EDGAR R. CATAXINOS
TRASKBRITT, PC
P.O. BOX 2550
SALT LAKE CITY UT 84110

RECEIVED

DEC 27 2005

TRASKBRITT, P.C.

COPY MAILED

DEC 23 2005

OFFICE OF PETITIONS

In re Application of
John R. Peery
Application No. 09/296,582
Filed: April 23, 1999
Attorney Docket No. 000952066

ON PETITION

This is a decision on the petition, filed December 22, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 2, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 3763 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).



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COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE

Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The Examiner indicates:

The prior art of record fails to teach with respect to claims 3, 21 and it's dependent claims a trocar in combination with all the elements and it's structural and functional limitations and further comprising a cannula, an obturator and a spring element with a leaf spring with a T-shaped cut out portion which is entirely within the cannula.

The prior art of record fails to teach with respect to claim 4 and it's dependent claims a trocar in combination with all the elements and it's structural and functional limitations and further comprising a cannula, an obturator and a spring element with a leaf spring with a plurality of successive bends that arranged to alternatively contact an inside wall of the cannula for retaining the implant.

Applicant concurs with the reasons as stated by the Examiner insofar as they comprise a summary, and are exemplary and not limiting. However, the independent claims as allowed include other and different language than that specified by the Examiner, and the allowed dependent claims include other and further features and elements. Accordingly, the scope of the claims must be determined from the literal language of each as a whole, as well as equivalents thereof.

Respectfully submitted,



Edgar R. Cataxinos
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